

401 KAR 40:010. General enforcement provisions.

RELATES TO: KRS 224.10, 224.46, 224.99

STATUTORY AUTHORITY: KRS 224.46-520

NECESSITY, FUNCTION, AND CONFORMITY: KRS 224.10-100 requires the cabinet to inspect any property or premises for the purpose of investigating either actual or suspected sources of pollution or contamination or for the purpose of ascertaining compliance or noncompliance with KRS Chapter 224 or the administrative regulations promulgated pursuant thereto. KRS 224.99-010 permits the Environmental and Public Protection Cabinet to assess civil and criminal penalties against any person who fails to perform any duties imposed by KRS Chapter 224, the administrative regulations promulgated pursuant to KRS Chapter 224 or any determination or order of the cabinet. This chapter establishes standards for enforcement and compliance monitoring of hazardous waste and solid waste management and practices. The enforcement and compliance monitoring standards of this chapter are for those activities and hazardous waste and solid waste sites or facilities regulated pursuant to 401 KAR Chapters 30 through 47. This administrative regulation establishes general enforcement provisions for the hazardous waste management administrative regulations.

Section 1. Enforcement. The requirements of 401 KAR Chapters 30 through 47 shall be enforced by the secretary or any duly authorized representative of the cabinet. Enforcement of these requirements shall be in accordance with the provisions of this chapter and KRS Chapter 224 to the extent such provisions provide fair and orderly fulfillment of the duties and powers of the secretary and the Environmental and Public Protection Cabinet. This chapter, however, shall in no way limit or prevent the secretary or the Environmental and Public Protection Cabinet from exercising any power or authority granted or vested it by the laws of the Commonwealth.

Section 2. Inspection. In accordance with the provisions of this chapter, the cabinet shall conduct or cause to be conducted such inspections, studies, investigations or other determinations as it deems reasonable and necessary to obtain information and evidence with which to ensure that waste management and disposal practices are conducted in accordance with the provisions of KRS Chapter 224, 401 KAR Chapters 30 through 40, all terms and conditions of a permit, and any order of the secretary.

Section 3. Compliance. It shall be the duty of any person affected by the provisions of KRS Chapter 224, 401 KAR Chapters 30 through 47, any condition of a permit or order of the secretary pertaining to hazardous or solid waste management or disposal activities to demonstrate compliance with any such provision, condition or order. Failure or inability to demonstrate compliance may be presumed by the secretary or any duly authorized representative of the cabinet to mean such person has not complied with that provision, condition or order for the purpose of proceeding with any action contemplated by this chapter. (6 Ky.R. 479; 666; eff. 6-4-1980; Recodified from 401 KAR 2:065, Section 1, 3-1-1983; 10 Ky.R. 162; eff. 12-2-1983; TAm eff. 8-9-2007; Crt eff. 10-9-2018.)